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SEC. 157. *Selling ice cream causing persons to have ptomaine poisoning, prohibited; penalty.*—If any person, firm, corporation, or agent engaged in the manufacture of ice cream for the purposes of sale in the city of Houston shall manufacture ice cream, and if said ice cream shall cause any person or persons to be affected with ptomaine poisoning, then the manufacturer of such ice cream shall be guilty of an offense, and in such event it shall be a separate offense in the person, firm, corporation, or agent manufacturing said cream for each person who is affected with ptomaine poisoning, and upon conviction therefor in the corporation court the person, firm, corporation, or agent manufacturing said cream shall be punished by a fine of not less than \$50 nor more than \$200 for each person or individual so poisoned.

SEC. 158. *Evidence sufficient to show ptomaine poisoning and sustain conviction; burden of proof on defendant to show facts disproving prima facie case.*—It shall be sufficient to sustain a conviction under the preceding section to show that the defendant manufactured the ice cream and that some individual or person upon eating same developed ptomaine poisoning, and the burden shall be upon the defendant to show that the person or persons were not poisoned by the cream so eaten, and that said ptomaine poisoning was due to misuse or abuse of the cream by some third person after it left the establishment of the defendant, and if the defendant shall show that the poisoning of the person was due to the act or neglect of some other person after the cream left his establishment, and that the manufacture of the particular cream was conducted in all respects in strict accordance with the requirements of this article, these facts when so established shall constitute a defense to the prosecution for causing ptomaine poisoning.

SEC. 159. *Purpose of this article.*—This ordinance is intended to be supplementary to any other ordinances on the subject matter. It is not intended to repeal ordinances prescribing the tax for persons engaged in the manufacture of ice cream, the purpose of this article being for regulation and for the protection of the public.

Foods and Drugs—Adulteration and Misbranding. (Ord. Jan. 26, 1914.)

ART. 18. SEC. 160. *Manufacture, possession, etc., of adulterated or misbranded foods and drugs prohibited; definitions terms "food" and "drugs."*—That no person, firm or corporation, or agents shall within this city manufacture for sale, have in his possession with intent to sell, offer or expose for sale, or sell or exchange any articles of food or drug which is adulterated or misbranded within the meaning of this article. The term "food," as used herein, shall include all articles used for food, drink, flavoring confectionery, or condiment, by man, whether simple, mixed, or compounded. That the term "drug," as used in this article, shall include all medicines and preparations for internal or external use recognized in the United States Pharmacopœia or National Formulary, and any substances or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either man or animal.

SEC. 161. *Articles deemed adulterated, when.*—That for the purposes of this article an article shall be deemed adulterated:

(a) *In the case of drugs.*—(1) If, when sold under or by a name recognized in the eighth decennial revision of the United States Pharmacopœia, or in such United States Pharmacopœia as official at the time of labeling it, or in the National Formulary, it differs from the standard strength, quality, or purity laid down therein; (2) if, when sold under or by a name not recognized in the eighth decennial revision of the United States Pharmacopœia, but which is found in some other pharmacopœia or other standard work on materia medica, it differs materially from the standard of strength, quality, or purity laid down in such work; (3) if, in its strength, quality, or purity, it falls below the professed standard under which it is sold.

(b) *In the case of confectionery.*—If it contains terra alba, barytes, talc, chrome yellow, or other mineral substances, or poisonous color or flavor, or other ingredients

deleterious or detrimental to health, or any vinous, malt, or spiritous liquor or compound, or narcotic drug.

(c) *In the case of food.*—(1) If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength; (2) if any substance has been substituted wholly or in part for the article; (3) if any valuable constituent of the article has been wholly or in part abstracted, or if the product be below that standard of quality, quantity, strength, or purity represented to the purchaser or consumer; (4) if it be mixed, colored, or powdered, coated, or stained in a manner whereby damage or inferiority is concealed; (5) if it contain any added poisonous or other added deleterious ingredient which may render such article injurious to health: *Provided*, That when in the preparation of the food products for shipment they are preserved by an external application applied in such manner that the preservative is necessarily removed mechanically, or by maceration in water or otherwise, and directions for the removal of said preservative shall be printed in the cover of the package, the provisions of this ordinance shall be construed as applying only when said products are ready for consumption; (6) if it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal or vegetable unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter. For the purpose of this article the term "filthy" shall be deemed to apply to food not securely protected from flies, dust, dirt, and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

SEC. 162. *What term "misbranded" applies to.*—That the term "misbranded" as used in this article shall apply to all drugs or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein, shall be false or misleading in any particular.

SEC. 163. *Articles deemed misbranded, when.*—That for the purpose of this article, an article shall also be deemed to be misbranded:

(a) *In the case of drugs.*—(1) If it be an imitation of or offered for sale under the name of another article; (2) if the contents of the package, as ordinarily put up, shall have been removed in whole or in part and other contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any morphine, phenacetin, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilid, or any derivative or preparation of any such substances contained therein.

(b) *In the case of food.*—(1) If it be an imitation of or offered for sale under the distinctive name of another article; (2) if it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, phenacetin, chloroform, cannabis indica, chloral hydrate or acetanilid, or any derivative or preparation of any such substances contained therein; (3) if in the package form and the contents are stated on the outside of the package; (4) if the package containing it or its labels bear any statement, design, or device regarding the ingredients of the substances contained therein which statement, design, or device shall be false or misleading in any particular provided, then that an article of food which does not contain any added poisonous or deleterious ingredient shall not be deemed to be adulterated or misbranded in the following cases: First, in the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on

the same label or brand with a statement of the place where said article has been manufactured or produced; second, in the case of articles labeled, branded, or tagged so as to plainly indicate that they are compounds, imitations, or blends, that the term "blend," as used herein, shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only; and provided further, that nothing in this article shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredients to disclose their trade formulas except in so far as the provisions of this article may require to secure freedom from adulteration or misbranding.

SEC. 164. *Manufacture, sale, etc., of food to which has been added formaldehyde, etc., prohibited; exceptions.*—It shall be unlawful for any person, firm, or corporation, or agents to manufacture or sell, offer for sale or exchange any article of food to which has been added formaldehyde, boric acid or borates, benzoic acid or benzoates, sulphurous acids or sulphites, salicylic acid or salicylates, abralstal, beta naphthal flourine compounds, dulcin, glucin, cocaine, sulphuric acid or other mineral acids except phosphoric acid, any preparation of lead or copper, or other ingredient injurious to health; provided that nothing in this article shall be construed as prohibiting the sale of catsups, sauces, concentrated fruits, fruit juices, and like substances preserved with one-tenth of 1 per cent of benzoate of soda or the equivalent benzoic acid, when a statement of such fact is plainly indicated upon the label; provided further, that the oxides of sulphur may be used for bleaching, clarifying, and refining food products.

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SEC. 166. *When dealer shall not be prosecuted under this article.*—That no dealer shall be prosecuted under the provisions of this article when he can establish a guaranty, signed by the wholesaler, jobber, manufacturer, or other party residing within this State or in the United States from whom he purchases such articles, to the effect that the same is not adulterated or misbranded within the meaning of this article, designating it. Said guaranty to afford protection shall contain the name of the party making the sale of such articles to such dealer, and in such cases said party or parties shall be amenable to the prosecution, fines, and other penalties which would attach in due course to the dealer under the provisions of this article.

SEC. 167. *Duty certain officers to investigate and prosecute violations this article; powers of officers; samples may be taken; standards adopted; methods analysis.*—It shall be the duty of the city pathologist and chemist, or any food inspector or deputy appointed by him, to carefully inquire into the quality of the foods and drug products manufactured or sold, or exposed for sale, or offered for sale in this city, and they may in a lawful manner procure samples of the same and make due and careful examination and analysis of all or of any such food and drug products to discover if the same are adulterated or misbranded, impure or unwholesome, in contravention to this article; and it shall be the duty of the city pathologist to make complaint against the manufacturer or vendor thereof in the corporation court and furnish the evidence thereof to obtain a conviction for the offense charged. The city pathologist and chemist, or his inspectors, or any person by him duly appointed for that purpose, shall make complaint and cause proceedings to be commenced against any person for the violation of any of the laws relative to adulterated, misbranded, impure, or unwholesome food; and he shall have power in the performance of his duties to enter into any creamery, wagon, depot, factory, store, salesroom, drug store, or laboratory, or place where he has reason to believe foods or drugs are made, prepared, sold, or offered for sale or exchange, and to open any cask, tub, jar, bottle, or package containing or supposed to contain any article of food or drug and examine or cause to be examined the contents thereof and take therefrom samples for analysis. The persons making such inspection shall take such sample of such article or product and he shall mark or seal

such sample and shall tender at the time of taking it to the manufacturer or vendor of such product, or to the person having the custody of the same, the value thereof and a statement in writing of the reason for taking such sample. The standards for food products of the Texas food and drug law are hereby adopted as a part of this article, and the methods of analysis authorized as official by the United States Department of Agriculture, in so far as they are applicable in the light of modern discovery and scientific research.

SEC. 168. *Certificate of purity, etc.*—It shall not be the duty of the city pathologist and chemist or his assistants while they hold office to furnish to any individual, firm, or corporation any certificate as to the purity or excellence of any article manufactured or sold to or by them to be used as food or drug or in the preparation of foods or drugs.

SEC. 169. *Annual report pathologist and chemist; contents.*—The city pathologist and chemist shall make an annual report to the mayor and city council at the end of the fiscal year, which report shall cover the entire work of his office for the preceding year and shall show, among other things, the number of manufactories and other places inspected and by whom, and the number of specimens of food and drug articles analyzed, and the number of complaints entered against any person or persons for the violation of the laws relative to the adulteration of foods and drugs, the number of convictions had and the amount of fines imposed therefor, together with such recommendations as his experience may justify.

SEC. 170. *Penalty.*—Any person, firm, or corporation who shall in any way violate any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$25 nor more than \$200.

Foodstuffs—Production, Care, and Sale. (Ord. Jan. 26, 1914.)

ART 19. SEC. 174. *Conditions, etc., of buildings, etc., used or occupied for certain purposes; meaning term "food."*—Every building, room, basement, or cellar occupied by or used as a bakery, confectionery, cannery, packinghouse, slaughterhouse, dairy, creamery, cheese factory, restaurant, hotel, grocery, meat market, or other place or apartment used for the preparation for sale, manufacture, packing, storing, sale, or distribution of any food, shall be lighted, drained, plumbed, and ventilated, and conducted with strict regard to the influence of such condition upon the health of the operatives, employees, clerks, or other persons therein employed, and the purity and wholesomeness of the food therein produced; and for the purpose of this chapter the term "food" as used herein shall include all articles used for food, drink, confectionery, or condiment, whether simple, mixed, or compound, and all substances or ingredients used in the preparation thereof.

SEC. 175. *Unclean, unhealthful, and insanitary conditions of establishments, etc.; manufacture, etc., prohibited; deemed to exist, when.*—The floors, walls, ceilings, furniture, receptacles, implements, and machinery of every establishment or place where food is manufactured, packed, stored, sold, or distributed, and all cars, trucks, and vehicles used in the transportation of food products, shall at no time be kept in unclean, unhealthful and insanitary condition, and for the purpose of this chapter unclean, unhealthful, and insanitary conditions shall be deemed to exist if food in the process of manufacture, preparation, packing, storing, sale, distribution, or transportation is not securely protected from flies, dust, dirt, and so far as may be deemed necessary by all reasonable means from all other foreign or injurious contamination; and if the refuse, dirt, and the waste products subject to decomposition and fermentation incident to the manufacture, preparation, packing, storing, selling, distributing, and transporting of food are not removed daily; and if all trucks, trays, boxes, baskets, buckets, and other receptacles, chutes, platforms, racks, tables, shelves, and all knives, saws, cleavers, and other utensils and machinery used in moving, handling, cutting, chopping, mixing, canning, and all other processes are not thoroughly cleaned daily, and